

Article 50C.

Promotion of Sale and Use of Tobacco.

§ 106-568.18. Policy as to joint action of farmers.

It is hereby declared to be in the public interest that the farmers of North Carolina who produce flue-cured tobacco be permitted and encouraged to act jointly in promoting and stimulating, by organized methods and through the medium established for such purpose, export trade for flue-cured tobacco and the use of tobacco everywhere. (1959, c. 309, s. 1.)

§ 106-568.19. Policy as to referendum on question of annual assessment.

For the purpose of raising reasonable and necessary funds for producer participation in the operations of the agency set up under farmer sponsorship for the promotion of export trade in flue-cured tobacco and the use of tobacco everywhere, it is proper, desirable, necessary and in the public interest that the farmers in this State engaged in the production of flue-cured tobacco shall have the opportunity and privilege of participating in a referendum to be held as hereinafter provided, in which referendum there shall be determined the question of whether or not the farmers of the State engaged in the production of flue-cured tobacco shall levy upon themselves an annual assessment for the purposes herein stated. (1959, c. 309, s. 2.)

§ 106-568.20. Referendum on assessment for next three years.

During the year 1989 or 1990 upon the exact date in such year as may be determined in the manner hereinafter set forth and under rules and regulations as established under the provisions of this Article, there shall be held in every county in North Carolina in which flue-cured tobacco is produced a referendum to be participated in by all farmers engaged in the production of flue-cured tobacco in which referendum said farmers shall vote upon the question of whether or not there shall be levied an annual assessment for a period of three years 1989, 1990 and 1991, or 1990, 1991, and 1992, such amount as may have been theretofore or as may be thereafter determined by the Board of Directors of Tobacco Associates, Inc., but not more than four dollars (\$4.00) per acre per year on all flue-cured tobacco acreage in the State of North Carolina. Those farmers entitled to share in the crop of flue-cured tobacco or in the proceeds of such crop because of sharing in the risk of production shall be deemed to be engaged in the production of such tobacco. (1959, c. 309, s. 3; 1987, c. 294, s. 1; 1989, c. 349, s. 1.)

§ 106-568.21. Effect of more than one-third vote against assessment in referendum.

If in such referendum more than one-third of the tobacco farmers eligible to participate therein and voting therein shall vote in the negative and against the levying or collection of such assessment, then no assessment shall be levied or collected pursuant to that referendum. (1959, c. 309, s. 4; 1987, c. 294, s. 2.)

§ 106-568.22. Effect of two-thirds vote for assessment in referendum.

If in such referendum two-thirds or more of the eligible tobacco farmers voting therein shall vote in the affirmative and in favor of the levying or collection of such assessment to be determined by the board of directors of Tobacco Associates, Incorporated, but in an amount of not more than four dollars (\$4.00) per acre per year on all flue-cured tobacco acreage in the State of North

Carolina, then such assessment shall be collected in the manner hereinafter provided. (1959, c. 309, s. 5; 1987, c. 294, s. 3; 1989, c. 349, s. 2.)

§ 106-568.23. Regulations as to referendum; notice to farm organizations and county agents.

The exact date, on which such referendum shall be held and the hours, voting places, and rules and regulations under which such referendum shall be conducted, shall be established and determined by the board of directors of the North Carolina corporation known and designated as Tobacco Associates, Incorporated, established under the leadership of farm organizations in the State of North Carolina for the purpose of stimulating, developing and expanding export trade for flue-cured tobacco and the use of tobacco everywhere; the said referendum date, hours, voting places, rules and regulations with respect to the holding of such referendum shall be published through the medium of the public press in the State of North Carolina by said board of directors at least 15 days before the holding of such referendum, and direct written notice thereof shall likewise be given to all farm organizations within the State of North Carolina and to each county agent in any county in which flue-cured tobacco is grown. (1959, c. 309, s. 6; 1987, c. 294, s. 4.)

§ 106-568.24. Distribution of ballots; arrangements for holding referendum; declaration of results.

The said board of directors of Tobacco Associates, Incorporated, shall likewise prepare and distribute in advance of said referendum all necessary ballots for the purpose thereof, and shall under the rules and regulations promulgated by said board arrange for the necessary poll holders for conducting the said referendum; and following such referendum and within 10 days thereafter the said board of directors shall canvass and publicly declare the results of such referendum. (1959, c. 309, s. 7; 1987, c. 294, s. 5.)

§ 106-568.25. Question at referendum.

Said referendum shall be upon the question of whether or not the farmers eligible for participation therein and voting therein shall favor an assessment upon themselves for the period of the next three tobacco marketing years, in an amount in each of said years as determined by or to be determined by the board of directors of Tobacco Associates, Incorporated but not more than four dollars (\$4.00) per acre per year on all flue-cured tobacco acreage in the State of North Carolina, for the purpose of providing farmer participation in the fund and through the agency established for the stimulation, expansion and development of export markets for flue-cured tobacco and the encouragement of the use of flue-cured tobacco everywhere. (1959, c. 309, s. 8; 1987, c. 294, s. 6; 1989, c. 349, s. 3.)

§ 106-568.26. Collection of assessments; custody and use of funds.

In the event two-thirds or more of the eligible farmers voting therein shall vote in favor of such assessment, then the said assessment shall be collected annually for the years herein set forth and under such method, rules and regulations as may be determined by the board of directors of the said Tobacco Associates, Incorporated, and the said assessment so collected shall be paid into the treasurer [treasury] of said Tobacco Associates, Incorporated, to be used along with funds from

other sources, for the purpose of stimulating, developing and expanding export trade for flue-cured tobacco and encouraging the use of flue-cured tobacco everywhere. (1959, c. 309, s. 9.)

§ 106-568.27. Required affirmative vote of directors of Tobacco Associates, Incorporated.

No assessment shall be made pursuant to this Article unless same shall receive the affirmative vote of not less than two-thirds of the members of the board of directors of Tobacco Associates, Incorporated, including the affirmative vote of not less than two thirds of such board members who were elected by North Carolina farm organizations. (1959, c. 309, s. 10.)

§ 106-568.28. Right of farmers dissatisfied with assessments; time for demanding refund.

In the event any referendum authorized by this Article is carried in the affirmative by such two-thirds vote and the assessment is levied and collected as herein provided and under the regulations to be promulgated by the board of directors of Tobacco Associates, Incorporated, any farmer or tobacco producer upon whom and against whom any such annual assessment shall have been levied and collected under the provisions of this Article, if dissatisfied with the said assessment, shall have the right to demand of and receive from the treasurer of said Tobacco Associates, Incorporated, a refund of such annual assessment so collected from such farmer or producer of tobacco, provided such demand for refund is made in writing within 30 days from the last date on which such assessment is collected from such farmer or producer or deducted from the proceeds of the sale of tobacco of such farmer or producer. (1959, c. 309, s. 11; 1987, c. 294, s. 7.)

§ 106-568.29. Subsequent referendum after defeat of assessment.

In the event any referendum conducted as provided for in this Article shall not be supported by two-thirds or more of those voting therein, then the board of directors of Tobacco Associates, Incorporated shall have full power and authority to call another referendum for the purposes herein set forth in any succeeding year, on the question of an annual assessment for the next three tobacco marketing years or less. If the referendum is carried as provided in this Article, then the assessments may be levied and collected as provided in this Article. (1959, c. 309, s. 12; 1989, c. 349, s. 4.)

§ 106-568.30. Referendum as to continuance of assessments approved at prior referendum.

In the event any referendum, held at any time under the provisions of this Article, is carried by the vote of two-thirds or more of the eligible farmers participating therein and assessments in pursuance thereof are being levied annually, then the board of directors of Tobacco Associates, Incorporated shall, in its discretion, have full power and authority to call and conduct another referendum in which the farmers and producers of flue-cured tobacco shall vote upon the question of whether or not assessments under this Article shall be continued for the next three tobacco marketing years. If the referendum is carried as provided in this Article, then assessments may be levied and collected as provided in this Article. (1959, c. 309, s. 13; 1987, c. 294, s. 8.)

§ 106-568.31. Filing and publication of financial statement by treasurer of Tobacco Associates, Incorporated.

The treasurer of Tobacco Associates, Incorporated shall, within 60 days after the end of any fiscal year, file with the State Auditor a financial statement as of the end of the fiscal year and a detailed statement of operations for the year ended. Further a condensed statement of the financial condition and operating expenses for said fiscal year shall be published in a newspaper of general circulation, if one exists, in each county from which assessments are collected. (1959, c. 309, s. 14; 1987, c. 294, s. 9.)

§ 106-568.32. Repealed by Session Laws 1987, c. 294, s. 11.

§ 106-568.33. Effect of Article on prior acts.

Insofar as the provisions of this Article are different from and in conflict with the provisions of Chapter 511, Session Laws of 1947 and Chapter 63, Session Laws of 1951, to the extent of such conflict the provisions of this Article shall be applicable and shall supersede and prevail over the provisions of said former acts and all provisions of this Article shall be in full effect. So long as assessments are made under this Article, no assessment shall be made and collected under the provisions of Chapter 511, Session Laws of 1947, as amended. (1959, c. 309, s. 16.)

§ 106-568.34. Alternate method for levy of assessment.

At any time when it may be found by the Board of Directors of Tobacco Associates, that it is not reasonably feasible to base the authorization of an assessment or the making of an assessment or the collection of an assessment on a "per-acre" unit, then the Board of Directors of Tobacco Associates, by an affirmative vote of not less than two thirds of its members (which vote shall include the affirmative vote of not less than two thirds of the board members who were elected by North Carolina farm organizations), may use a "tobacco poundage" unit as the basis for the authorization or making or collecting an assessment. No alternative assessment for any year after 1988 shall exceed one-fifth cent (1/5¢) per pound of the flue-cured tobacco marketed by each farmer. The amount of any alternate assessment, based upon a "tobacco poundage" unit as permitted by the provisions of this section shall not be related to or limited by the amount of the assessment which could be authorized, made or collected if it were based upon a "per-acre" unit. (1973, c. 81; 1979, c. 474, s. 1; 1987, c. 294, s. 10; 1989, c. 349, s. 5.)

§ 106-568.35. Alternate provision for referendum voting by mail.

(a) At any time when it may be found that it is not desirable or reasonably possible to conduct a referendum by written ballots to be cast at polling places (as provided in G.S. 106-568.23 and 106-568.24 of this Article), the board of directors of Tobacco Associates, Incorporated, by an affirmative vote of not less than two-thirds of its members (which vote shall include the affirmative vote of not less than two thirds of such board members who were elected by North Carolina farm organizations), may prescribe and provide for a vote by mail by written or printed ballot.

(b) In the event that the board of directors shall decide to conduct the referendum by mail vote, the board shall prescribe the rules and regulations under which such mail referendum shall be conducted; shall provide the necessary ballots and cause them to be mailed to the farmers of North Carolina who are engaged in the production of flue-cured tobacco; shall provide envelopes for the return of such ballots by individual voters; shall cause to be published through the medium of the public press in the State of North Carolina notice of the holding of such referendum at least

15 days before the mailing out of the ballots; shall give direct written notice of such proposed mail referendum to all statewide farm organizations within the State of North Carolina and to each county agent in each county in which flue-cured tobacco is grown; shall provide a closing date for the return of the ballots; shall provide for the receipt and safeguarding of such ballots; and, within 30 days of the date set as the latest date for the return of such ballots, shall canvass the ballots and publish and declare the results of such referendum. (1975, c. 125; 1987, c. 294, s. 12.)

§ 106-568.36. Maximum levy after 1988.

The maximum amount which may be authorized in any referendum held pursuant to the provisions of this Article during 1989 or thereafter, and the maximum amount which may be assessed, collected or levied for any year after 1988 by the Board of Directors of Tobacco Associates pursuant to the provisions of this Article, is four dollars (\$4.00) per acre per year on all flue-cured tobacco acreage in the State, or, under the alternate method for levy of assessment set out in G.S. 106-568.34, one-fifth cent (1/5¢) per pound of the flue-cured tobacco marketed by each farmer. (1979, c. 474, s. 2; 1987, c. 294, s. 13; 1989, c. 349, s. 6.)

§ 106-568.37. Report on use of assessments.

The Board of Directors of the Tobacco Associates, Incorporated shall make an annual written report of the financial transactions and a financial statement concerning the receipts and disbursements of the revenue from the assessment. A copy of the report shall be provided by the Board of Directors of the Tobacco Associates, Incorporated to the Commissioner of Agriculture, the Dean of the College of Agriculture and Life Sciences at North Carolina State University, the North Carolina Farm Bureau Federation, the North Carolina State Grange, and the Bright Belt Warehouse Association. (1989, c. 349, s. 7.)

§ 106-568.38: Reserved for future codification purposes.

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